

MAINE DEPARTMENT OF TRANSPORTATION
FFY 2020-2022 DBE GOAL
(October 1, 2019 through September 30, 2022)

OVERALL GOAL

Pursuant to 49 CFR 26 MaineDOT has researched upcoming potential contracts for our agency and Federal Transit Administration (FTA) subrecipients, analyzed census data, reviewed bidding and DBE attainment history and has determined that the overall annual Disadvantaged Business Enterprise (DBE) attainment on FTA funded projects for FFY 2020-22 (October 1, 2019 through September 30, 2022) is 0.94%

METHOD OF ESTABLISHING GOAL

Step 1 – Determining a base figure

49 CFR 45 (b) states “Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.”

MaineDOT will calculate the overall goal using the criteria based in **49 CFR § 26.45(c) “Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs.”**

The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FTA-assisted contracts and reflect a level MaineDOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.**

Market Area:

The market area was determined to be Statewide, since the substantial majority of the contractors and subcontractors with which MaineDOT and its subrecipients do business are located in Maine, and the entire state is the area in which MaineDOT and its subrecipients spend the substantial majority of their contracting dollars.

Data Sources:

MaineDOT got information from the 2016 County Business Patterns:

<https://factfinder.census.gov/bkmk/table/1.0/en/BP/2016/00A1/0400000US23/naics~ALL-L6>

And from the Maine DBE Directory: <http://www.maine.gov/mdot/civilrights/dbe/>.

To determine the number of certified DBE firms that are ready, willing and able to work on a given FTA-assisted project, we looked at the Maine DBE directory for firms that offer transit-related services. We also looked for NAICS codes based on anticipated contracts specified by our subrecipients where DBEs are eligible for work. (See Future Participation, P. 5)

Economic Census 2016, Maine Data for various NAICS codes related to transit contracts/subcontracts:

NAICS Code	Description	Maine Firms	Maine DBEs
236110	Industrial building construction	6	4
236220	Commercial and institutional building construction	142	4
237990	Construction management, mass transit	41	3
238220	Plumbing heating and air conditioning contractors	619	2
238910	Site preparation contractors	514	5
336611	Shipbuilding and repairing	14	0
454310	Fuel dealers	276	0
483114	Coastal passenger transp to and from domestic ports	6	0
485991	Paratransit transportation services	15	1
541810	Advertising agencies	39	1
541990	All other professional, scientific and technical services	45	1
811111	General automotive repair	622	1
TOTALS:		2339	22

BASE FIGURE: Total RWA DBES/TOTAL MAINE FIRMS

0.0094057

Therefore, the denominator would be 2339 to represent all potential transit firms and transit related firms for potential contracts and subcontracts in Maine for the upcoming 3 fiscal years.

The numerator would be 22, the number of DBE's under these categories available to perform the identified support work in Maine.

Maine chooses not to use weighting in the determination of the base goal because of the similarity in the types of DBEs that participate on FTA projects and because of the limited number of NAICS codes that DBEs work under in the market area.

The base goal based upon the 2016 County Business Patterns (NAICS) and DBE Directory data would be: 22/2339 = 0.94%

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

Maine has not conducted any disparity studies that would apply to the calculation of this goal.

(4) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule; you may use that goal as a base figure for your goal.

This method was not used for goal calculation.

(5) Alternative methods. You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

MaineDOT does not propose any alternative method for base goal calculation.

Maine DOT/ FTA – Funded DBE BASE GOAL = 0.94%.

Step 2 - ADJUSTMENTS TO BASE

26.43(d) states “Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any is needed to the base figure in order to arrive at your overall goal.”

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

Past participation in FTA-funded services for the Department are as follows:

FY Year	Total Attainment
2016	1.745
2017	0.815
2018	0.06

Median attainment was 0.815%.

The table below includes a detail of DBE commitments and awards as well as data regarding subrecipient participation as prime as presented above:

Year	Total awarded \$	DBE Award \$	TTL Prime	Prime DBE	Sub DBE	Non- DBE subs	Total subs
16	\$3,517,667.00	\$74,344.00	35	4	1	27	28
17	\$1,690,393.00	\$13,086.00	19	3	0	2	2
18	\$3,071,678.00	\$3,300.00	24	1	0	7	7

The median past participation was 0.815%. Because the median fell short of the overall DBE goal for 2017-2019 of 0.97%, we will not make an adjustment for past participation.

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

There have been no related disparity studies for Maine.

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

The base figure selected is not the goal of another recipient. Maine does not currently have enough specific data from the other states on their transit programs to adjust the goal for differences in Maine.

Anticipated sub/contract Opportunities from MaineDOT and Subrecipients.

MaineDOT anticipates 3 contracts in each year in the upcoming triennial. MaineDOT uses a prequalification process which requires firms to apply for prequalification for general service agreements. Under this process only one firm has applied which is a DBE. There may be subcontracting opportunities for other DBE firms, but none are being used on the 2 non-DBE consultants as they are not subcontracting at this time.

Anticipated sub/contract Opportunities from Subrecipients.

MaineDOT has surveyed sub-recipients for any known or potential subcontract opportunities for FY 2020 through 2022. MaineDOT has also included its own consulting contracts for the upcoming years. This is the information from that survey:

NAICS Code	Description	Amount of FTA funds anticipated FFY 2020	Amount of FTA funds anticipated FFY2021	Amount of FTA funds anticipated FFY 2022
236110	Industrial building construction	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00
236220	Commercial and institutional building construction	\$500,000.00	\$500,000.00	\$500,000.00
237990	Construction management, mass transit	\$25,000.00	\$25,000.00	\$25,000.00
238220	Plumbing heating and air conditioning contractors	\$337,500.00	\$337,500.00	\$337,500.00
238910	Site preparation contractors	\$337,500.00	\$337,500.00	\$337,500.00
336611	Shipbuilding and repairing	\$100,000.00	\$100,000.00	\$100,000.00
454310	Fuel dealers	\$235,000.00	\$235,000.00	\$235,000.00
483114	Coastal passenger transp to and from domestic ports	\$50,000.00	\$50,000.00	\$50,000.00
485991	Paratransit transportation services	\$350,000.00	\$350,000.00	\$350,000.00
541810	Advertising agencies	\$25,000.00	\$25,000.00	\$25,000.00
541990	All other professional, scientific and technical services	\$100,000.00	\$100,000.00	\$100,000.00
811111	General automotive repair	\$470,000.00	\$470,000.00	\$470,000.00
TOTALS:		\$3,530,000.00	\$3,530,000.00	\$3,530,000.00

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

Maine has not collected this data related to transit contracts. Maine does have a tribal community development financial institution, Four Directions offers business financing for members of the four major tribes in Maine, the Penobscot, Passamaquoddy, Micmac and Maliseet.

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

Maine has not collected this data related to transit contracts.

(2) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the "but for" factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

Maine will not attempt to adjust the base figure based upon the effects of the DBE program.

(3) Other Discussion Related to Maine's Historical Data:

MaineDOT requested all bidder information from its subrecipients for the time period April 1, 2018 – March 31, 2019. We also included all bidders on MaineDOT contracts using FTA dollars.

All other bidders that submitted either prime or subcontract bids on FTA funded work for the last year are:

1. AECOM
2. Blackmore Electronics, LLC
3. Jackie's Cleaning of Lewiston
4. LSC Transportation Consultants
5. Morris Communications
6. RLS & Associates
7. Rothe Associates

Total number of bidders = 7 firms. The number 7, therefore, is the denominator.

Of these firms, the following are DBE's:

1. Morris Communications	2. RLS & Associates
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Number of bidding DBE's = 2 firms.

Therefore, for the base goal, 2 is the numerator.

$$2/7 = 28.57\%$$

We know from past attainment that this is not a reasonable base goal. Although we do have a number of DBE bidders, they are primarily bidding on small subcontracts (typically, approximately 1% of monetary value of the work) which amounts to lower attainment percentages in dollars. There are very few opportunities for sub-recipients to sub-contract as most services are delivered by the sub-recipients themselves.

OVERALL GOAL CALCULATION

FFY 2020-2022 for each year is 0.94%.

RACE NEUTRAL AND CONSCIOUS MEASURES

The Department's DBE Program goal of 0.94% for FFYs 2020-2022 will be achieved entirely through race and gender-neutral means. Although we did not meet our previous overall goal of 0.97% for FFY 2017 and 2018, there are so few DBEs that provide transit-related services that we believe it would be unrealistic to set contract goals at the present. There is simply a very limited capacity of Maine's DBE community for transit operations and needs; however, we will more aggressively pursue DBE participation where we can, both in terms of MaineDOT subcontracting opportunities and with our subrecipients. For example, we have an ongoing conversation with the subrecipient transit provider that will be receiving a substantial amount of the FTA funding anticipated for expansion of its transit operations facility. The provider will work with the prime contractor to ensure that qualified DBEs are aware of bidding opportunities for sub-contracts. We will remain in close contact with the provider to ensure that the prime makes good faith efforts to utilize DBEs.

As Maine's only Unified Certification Program entity, MaineDOT has done extensive public outreach to ensure that eligible businesses are aware of the DBE Program. For many years, MaineDOT has contracted with Eastern Maine Development Corporation (EMDC), a community development and small business

development agency, to administer its DBE Supportive Services Program. MaineDOT includes in this contract a recruitment component that require the consultant to promote the DBE program to businesses at trade shows, networking and matchmaker events.

MaineDOT DBE staff also meets annually with transit providers to discuss DBE attainment and reporting, and to stress the need to seek DBE contracts on their transit projects. We explain that this is not only when contracting for capital contracts, but for supplies, consulting and procurement of services. EMDC sends out weekly updates to all Maine DBEs on upcoming bid opportunities.

Finally, the Department has no evidence of discrimination on the part of transit contractors and does have evidence of continuing good faith effort. If we determine that we will not attain the 0.94% overall goal using race-neutral measures, we will need to consider whether it is realistic to set targeted project goals and/or re-assess our overall goal.

PUBLIC PARTICIPATION

As Maine’s only Unified Certification Program entity, MaineDOT has done extensive public outreach to ensure that eligible businesses are aware of the DBE Program. For many years, MaineDOT has hired Eastern Maine Development Corporation, a community development and small business development agency, to administer its DBE Supportive Services Program. EMDC’s contract with MaineDOT includes a recruitment component that requires the consultant to promote the DBE program to businesses at trade shows, networking and matchmaker events.

Below is the complete list of events, and workshops that the DBESS Specialist and/or the DBE Administrator attended and participated in from January, 2018 through June, 2019 for the purpose of networking with small businesses and other resources that work with small businesses in order to promote the DBE Program gather input on how best to promote the program and work with groups to bring prime contractors and providers together with small business groups.

1. April 11, 2018 – National Association of Women in Construction (NAWIC) Showcase, Augusta, ME
2. September 6, 2018 – Business2Business Trade Show, Lewiston, ME
3. September 12, 2018 – Tri-state (ME, NH, VT), North Conway, NH
4. September 17, 2018 - Piscataquis County Economic Development Council Quarterly (PCEDC) meeting, Dover Foxcroft, ME
5. June 7, 2018 – Business2Business Expo, Lewiston, ME
6. October 11, 2018 - Grow Smart Maine annual event, Bangor, ME
7. November 14, 2018 – Maine Business Expo & Next4ME, Portland, ME
8. November 29, 2018 – Piscataquis County Public Transit Forum, Dover Foxcroft, ME
9. November 29, 2018 - PCEDC Quarterly meeting, Dover Foxcroft, ME
10. December 3, 2018 – EMDC Annual Meeting, Bangor, ME
11. December 6, 2018 – Maine Transportation Conference, Augusta, ME
12. December 10, 2018 – PCEDC Annual Meeting, Dover Foxcroft, ME
13. December 10, 2018 - PCEDC Dover Foxcroft, ME
14. February 26, 2019 - Big Gig: Innovation & Entrepreneurs Meeting, Brewer, ME
15. March 7, 2019 – 2019 Maine Better Transportation Meeting, South Portland, ME

16. April 3, 2019 – Portland DBE Conference, Portland, ME
17. April 25 & 26, 2019 – 2019 New England Matchmaker Event, Portland, ME
18. June 6, 2019 – 2019 Build Maine Event, Lewiston, ME
19. June 20, 2019 – Maine Business2Business Trade Show, Auburn, ME

Public Notification of Goal Methodology

The public was notified of the proposed goal on July 15, 2019 by a Notice placed on MaineDOT Civil Rights website. Public comments will be solicited for 30 days; all comments must have been received by August 20, 2019 4:00 PM.

Additionally, the draft goal methodology was posted on the MaineDOT website:
<http://www.maine.gov/mdot/civilrights/>.

Several interested stakeholders were notified directly by e-mail of the goal publication, including current service providers, contracting groups, women business organizations and the entire DBE directory. These individuals were also invited to participate in a conference call to discuss the methodology and the DBE program. E-mails were sent out to interested parties on July 15, 2019.

July 19, 2019 FTA Goal Methodology Conference Call

MaineDOT held a conference call to inform the DBE, providers and business community on the proposed FTA Goal and methodology and to get input and take questions on that and on the DBE Program. Conference call invitations were sent to all DBE's in Maine, transit providers, Associated General Contractors of Maine, Municipal Planning Organizations and others on July 15.

Outcomes: One transit provider attended, along with three Maine Civil Rights Office and Transit staff.

Comments and Feedback: Although some points of clarification were discussed during the conference call, there were no comments or feedback concerning the substance of the Goal Methodology. No written comments or feedback have been received as of July 31, 2019. The deadline for filing such comments was August 20, 2019. No comments were received.